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BILL NO. Z-96-07-14

ZONING MAP ORDINANCE NO. Z-06-96

AN ORDINANCE amending the City of  
Fort Wayne Zoning Map No. E-15.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated an M-2 (General Industrial)

District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana of 1974:

DESCRIPTION R1 AREA

Part of the Northeast Quarter of Section 19, in Township 30 North, Range 12 East, Allen County, Indiana, described as follows to-wit:

Commencing at an iron rod found marking the Southeast corner of the Northeast Quarter of said Section 19, Township 30 North, Range 12 East; thence West (assumed bearing and basis for this description), along the South line of the Northwest Quarter of Section 20, a distance of 546.92 feet to the true point of beginning for this description, said point also on a line being the North-South dividing line between the M1 district and the R1 district in the East Half of said Northeast Quarter of Section 19, as shown on the City zoning Map E-15; thence continuing West along said South line of the Northeast Quarter of Section 19, a distance of 974.10 feet to the center line of Junk Ditch; thence North 00 degrees 50 minutes 10 seconds West along the center line of Junk Ditch a distance of 1734.21 feet to the South right-of-way line of Lindell Avenue; thence along said South right-of-way of Lindell Avenue, North 49 degrees 36 minutes 05 seconds East a distance of 962.91 feet to a point, said point being on the North line of a parcel deeded to United Refuse in Document #95-004735; thence North 86 degrees 57 minutes 00 seconds East, along said North line, for a distance of 167.50 feet to a point; thence South on a line parallel and 625 feet West of the East right-of-way of Smith Road, said line also being the North-South dividing line between M1 District and the R1 District in the East Half of said Northeast Quarter as shown on the city zoning Map E-15, a distance of 2369.13 feet to the South line of the Northeast Quarter of Section 19 and the point of beginning, containing 46.23 acres more or less.

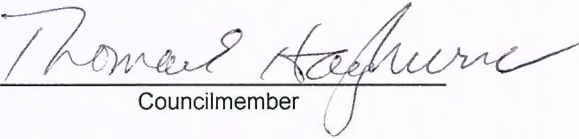
DESCRIPTION M1 AREA

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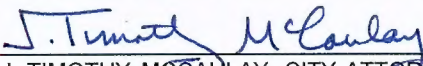
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and the symbols of the City of Fort Wayne Zoning Map No. E-15, as established by Section 157.016 of Title XV of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

  
Councilmember

APPROVED AS TO FORM AND LEGALITY:

  
J. TIMOTHY MCSAULAY, CITY ATTORNEY

Read the first time in full and on motion by Hay Hurst,  
and duly adopted, read the second time by title and referred to the  
Committee on Regulators (and the City Plan Commission  
for recommendation) and Public Hearing to be held after due legal notice, at  
the Common Council Council Conference Room 128, City-County Building, Fort  
Wayne,, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_\_, at \_\_\_\_\_ o'clock

M., E.S.T.

DATED:

7-23-96

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Hay Hurst,  
and duly adopted, placed on its passage. PASSED YES  
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS				<u>✓</u>
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY	<u>✓</u>			
LUNSEY				<u>✓</u>
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			

DATED:

8-13-96

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL)

(ZONING)

ORDINANCE

RESOLUTION

NO. 2-26-96

on the 13<sup>th</sup> day of August, 1996

ATTEST:

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

(Seal) J. D. Schmitz  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the 14<sup>th</sup> day of August, 1996,  
at the hour of 2:00 o'clock PM, M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 16<sup>th</sup> day of August,  
1996, at the hour of 10:00 o'clock A M., E.S.T.

Paul Helmke  
PAUL HELMKE, MAYOR



#618

Receipt # 0013407

# Petition for a Zoning Map Amendment

Community & Economic Development / 1 Main Street Rm #830 / Fort Wayne IN 46802 / (219) 427-1129

I/We

do hereby petition to amend the Zoning Map of the City of Fort Wayne Indiana, by reclassifying from designation  
a/an: R-1 (One-Family Residence District) and M-1 (Light Industrial District). See Exhibit A.  
to a/an: M-2 (General Industrial District)

designation the property located at the common street address of: 5000 Smith Road

and further described as follows: \_\_\_\_\_

For legal description of R-1 District see attached Exhibit B.

For legal description of M-2 District see attached Exhibit C.

For Survey see attached Exhibit D.

(Please attach a legal description if more space is needed.)

The purpose of this rezoning is to permit the use of the property for the following: \_\_\_\_\_

Municipal solid waste landfill facility

Property Owner(s) Name(s): United Refuse Company, Inc.

Street Address: 5000 Smith Road

City: Fort Wayne

State: Indiana

Zip Code: 46804

Phone: (219) 432-5582

I/We the undersigned, do hereby certify that I am/We are the owner(s) of more than fifty percent (50%) of the property described in this petition; that I/We agree to abide by all provisions of the Fort Wayne Zoning Ordinance as well as all procedures and policies of the Fort Wayne City Plan Commission as relating to the handling and disposition of this petition; and that the above information is true and accurate to the best of my/our knowledge.

UNITED REFUSE COMPANY, INC.

BY: [Signature]  
Signature Vice President

Dallas Schnitzius  
Printed Name

06/13/96  
Date

BY: [Signature]  
Signature Vice President

G. Michael Shannon  
Printed Name

06/13/96  
Date

Signature

Printed Name

Date

Notes to the Applicant:

- If additional space is needed for either a legal description, or property owners names addresses and signatures, please attach same to this form.
- All requests and deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice being submitted to the newspaper for publication.
- Filing of this petition grants the City of Fort Wayne permission to post "Official Notice" on the petitioned property. Failure to post, or to maintain posting may prevent the public hearing from being held.
- All checks should be made payable to: CITY OF FORT WAYNE.

Name and Address of preparer, attorney or agent.

Mark E. GiaQuinta, Esq.

Robert W. Eherenman, Esq.

HALLER & COLVIN, P.C.

444 East Main Street

Fort Wayne, Indiana 46802

(219) 426-0444

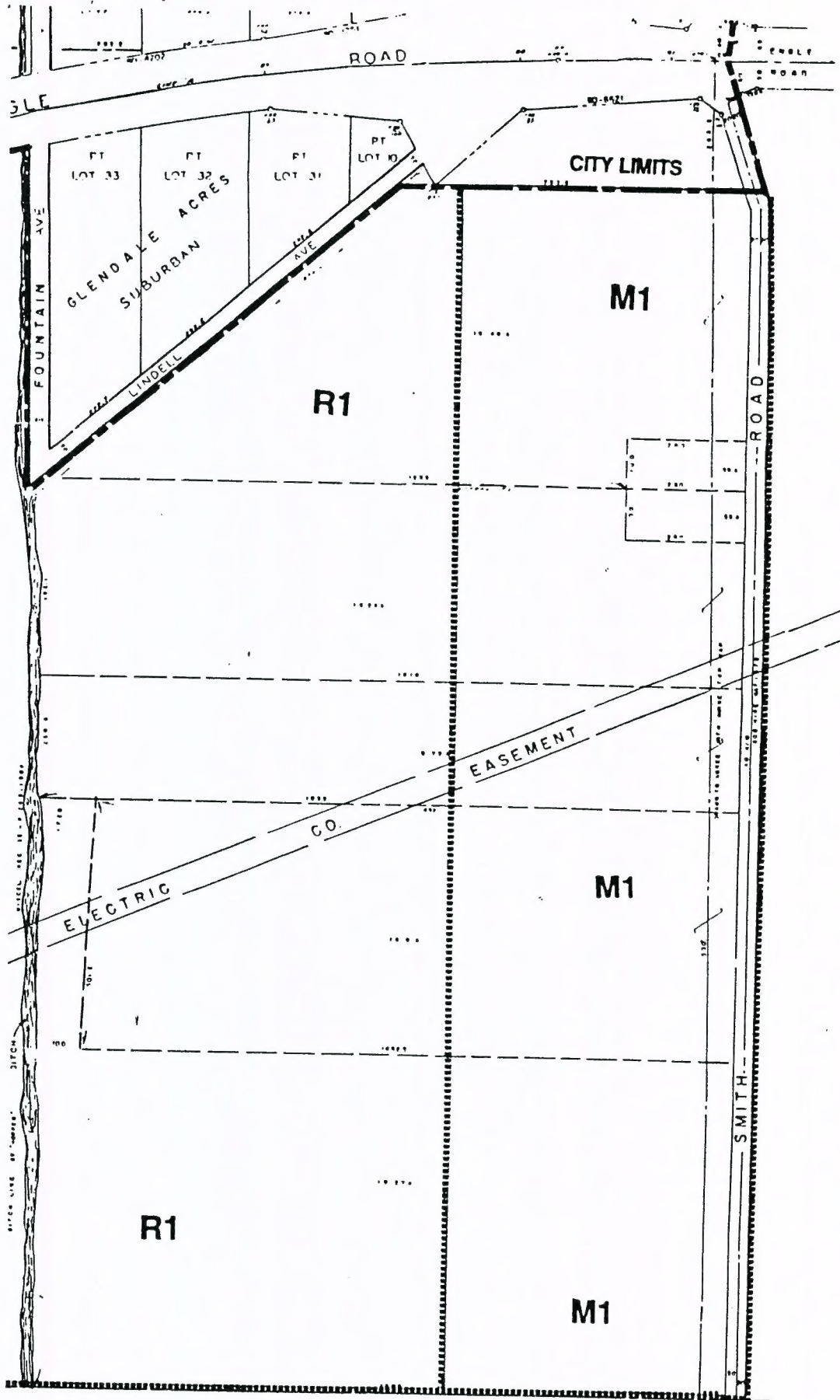
Telephone Number

Receipt #: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Map #: \_\_\_\_\_

Reference #: \_\_\_\_\_



NORTHEAST 1/4 SECTION 19  
TOWNSHIP 30 NORTH, RANGE 12 EAST  
WAYNE TOWNSHIP  
CITY ENGINEERING DEPT  
SCALE 1"=100'

E-15

EXHIBIT A

### DESCRIPTION R1 AREA

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### CERTIFICATION

I, C Blake Doriot a registered Land Surveyor in the State of Indiana, hereby certify that the above is a true and accurate representation of a description made under my direction on June 10, 1996 and that the lines, angles, and distances hereon are true and accurate to the best of my knowledge and belief.

Certification date: June 12, 1996



C Blake Doriot, In. Reg. L.S.# 890028

EXHIBIT B

### DESCRIPTION M1 AREA

Part of the Northeast Quarter of Section 19 and Part of the Northwest Quarter of Section 20, all in Township 30 North, Range 12 East, Allen County, Indiana, described as follows to-wit:

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Certification date: June 12, 1996



C Blake Doriot, In. Reg. L.S.# 890028

EXHIBIT C

## RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

**WHEREAS**, the Common Council of the City of Fort Wayne, Indiana, on July 23, 1996 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-96-07-14; and,

**WHEREAS**, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

**WHEREAS**, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1996.

**NOW THEREFORE, BE IT RESOLVED** that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a **DO PASS** recommendation based on the Commission's following "Findings of Fact".

- 1) Approval of the request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area.
- 2) Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area.

In fact, approval will extend the requested zoning along logical boundary lines, using existing roadways, railways and ditches as boundary limits.

**BE IT FURTHER RESOLVED** that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 22, 1996.

Certified and signed this  
26th day of July 1996.



---

Carol Kettler Sharp  
Secretary

BILL NO. Z-96-07-14

REPORT OF THE COMMITTEE ON  
REGULATIONS  
REBECCA J. RAVINE - THOMAS E. HAYHURST - CO-CHAIR  
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS  
REFERRED AN (ORDINANCE) (~~XXXXXXXXXX~~) amending the City of Fort  
Wayne Zoning Map No. E-15

HAVE HAD SAID (ORDINANCE) (~~XXXXXXXXXX~~) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (~~XXXXXXXXXX~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

*Thomas E. Hayhurst*

*Rebecca Ravine*

*Deedee Hall*

*Julie M. Mays*

*D. Schmitt*

*John W. Crumley*

*Debra Ann Bunch*

DATED:

Sandra E. Kennedy  
City Clerk

*From the desk of:*

**Pat Biancaniello**

AGENT:

Mark GiaQuinta  
444 E Main St  
City 02

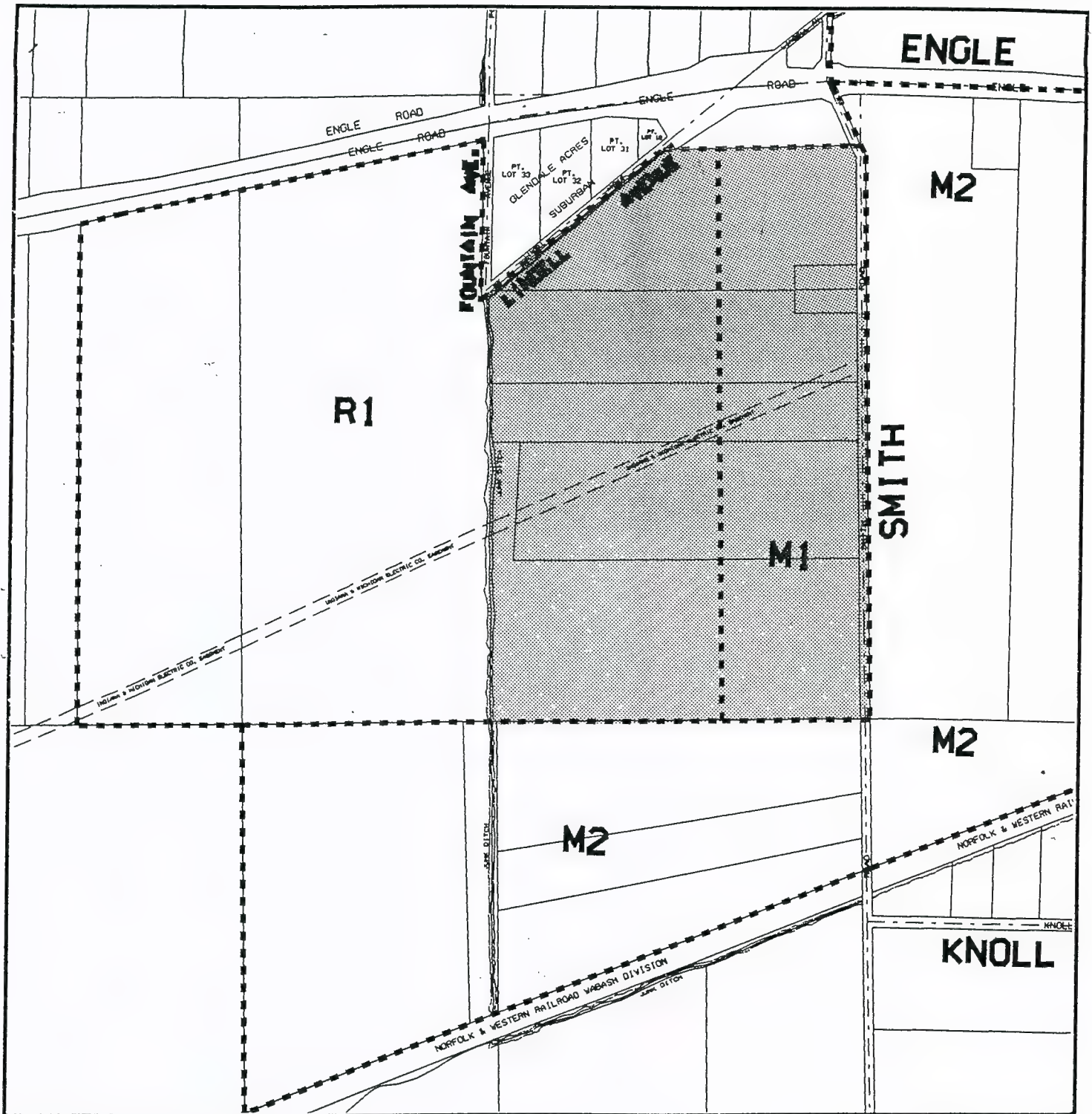
426-0444

2-96-07-14

# REZONING PETITION

AREA MAP

CASE NO. #618



COUNCILMANIC DISTRICT NO. 4

Map No. E -15

<b>R1</b>	One-Family	<b>B1</b>	Limited Business	<b>M1</b>	Light Industrial
<b>R2</b>	Two-Family	<b>B2</b>	Planned Shopping Center	<b>M2</b>	General Industrial
<b>R3</b>	Multi-Family	<b>B3</b>	General Business	<b>M3</b>	Heavy Industrial
<b>RA/RB</b>	Residential	<b>B4</b>	Roadside Business	<b>MHP</b>	Mobile Home Park
<b>PUD</b>	Planned Unit Dev..	<b>POD</b>	Professional Office District		

ORIGINAL

ORIGINAL

#618

DIGEST SHEET

TITLE OF ORDINANCE Zoning Map Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE 5000 Smith Road

2-96-07-14.

EFFECT OF PASSAGE Property is currently zoned R-1 - Single  
Family Residential and M-1 - Light Industrial District.  
Property will be rezoned to M-2 - General Industrial.

EFFECT OF NON-PASSAGE Property will remain zoned R-1 - Single  
Family Residential and M-1 - Light Industrial District.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) \_\_\_\_\_

(ASSIGN TO COMMITTEE) \_\_\_\_\_

# FACT SHEET

Z-96-07-14

BILL NUMBER

## Division of Community Development & Planning

BRIEF TITLE

APPROVAL DEADLINE

REASON

Zoning Map Amendment

From R1 & M1 to M-2

### DETAILS

### POSITIONS

### RECOMMENDATIONS

<p><b>Specific Location and/or Address</b></p> <p style="text-align: center;">5000 Smith Road</p> <p><b>Reason for Project</b></p> <p style="text-align: center;">Municipal solid waste landfill facility.</p> <p><b>Discussion (Including relationship to other Council actions)</b></p> <p>15 July 1996 - Public Hearing</p> <p>(See Attached Minutes of Meeting)</p> <p>22 July 1996 - Business Meeting</p> <p>Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.</p> <p>Of the eight (8) members present, seven (7) voted in favor of the motion, the Chair did not vote. Motion carried.</p> <p>Members Present: Linda Buskirk, Jim Dearing, Ernest Evans, DeDe Hall, James Hoch, Richard Pierce, Thomas Quirk, Dave Ross</p> <p>Member Absent: Carol Kettler Sharp</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 5px;"><b>Sponsor</b></td> <td style="padding: 5px;">City Plan Commission</td> </tr> <tr> <td style="padding: 5px;"><b>Area Affected</b></td> <td style="padding: 5px;">City Wide</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">Other Areas</td> </tr> <tr> <td style="padding: 5px;"><b>Applicants/ Proponents</b></td> <td style="padding: 5px;">Applicant(s) United Refuse Corporation City Department</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">Other</td> </tr> <tr> <td style="padding: 5px;"><b>Opponents</b></td> <td style="padding: 5px;">Groups or Individuals</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">Basis of Opposition</td> </tr> <tr> <td style="padding: 5px;"><b>Staff Recommendation</b></td> <td style="padding: 5px;"> <input checked="" type="checkbox"/> For      <input type="checkbox"/> Against   Reason Against </td> </tr> <tr> <td style="padding: 5px;"><b>Board or Commission Recommendation</b></td> <td style="padding: 5px;"> By   <input checked="" type="checkbox"/> For      <input type="checkbox"/> Against  <input type="checkbox"/> No Action Taken  <input type="checkbox"/> For with revisions to conditions  (See Details column for conditions) </td> </tr> <tr> <td style="padding: 5px;"><b>CITY COUNCIL ACTIONS (For Council use only)</b></td> <td style="padding: 5px;"> <input type="checkbox"/> Pass      <input type="checkbox"/> Other  <input type="checkbox"/> Pass (as amended)      <input type="checkbox"/> Hold  <input type="checkbox"/> Council Sub.      <input type="checkbox"/> Do not pass </td> </tr> </table>	<b>Sponsor</b>	City Plan Commission	<b>Area Affected</b>	City Wide		Other Areas	<b>Applicants/ Proponents</b>	Applicant(s) United Refuse Corporation City Department		Other	<b>Opponents</b>	Groups or Individuals		Basis of Opposition	<b>Staff Recommendation</b>	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against  Reason Against	<b>Board or Commission Recommendation</b>	By  <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)	<b>CITY COUNCIL ACTIONS (For Council use only)</b>	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass
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DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

Date 13 June 1996

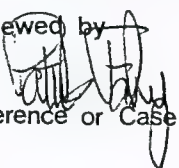
Projected Completion or Occupancy

Date 26 July 1996

Fact Sheet Prepared by

Patricia Biancaniello

Reviewed by



Reference or Case Number

Date 29 July 1996

- a. Change of Zone #618  
From R-1 & M-1 to M-2  
5000 Smith Road

Mark GiaQuinta, attorney for the petitioners, United Refuse, appeared before the Commission. Mr. GiaQuinta stated that they were asking for the rezoning of land that is located on Smith Road, that is presently occupied by United Refuse. He stated that this property has been recently annexed. He stated that as a part of the annexation process they appeared before City Council, and made a commitment to the members of City Council, to meet and work with the members of the Plan Commission staff, to clear up any zoning issues that staff felt were either ambiguous, or could be better presented with various changes. He stated that they currently have a "tapestry" of various zoning classifications. He stated the existing use is that of a sanitary landfill, as provided for by the Fort Wayne Board of Zoning Appeals and the Allen County Board of Zoning Appeals. He stated that they already have the use (sanitary landfill) in existence, with a Special Exception granted by the appropriate zoning agencies, but the underlying zoning classification are something of a hodgepodge. He stated that they were at the meeting to ask that the entire tract owned by United Refuse be rezoned to M-2. He stated that the application seeks a zoning change that is consistent with the City's Comprehensive Plan. He requested that the staff report be made a part of the record. He stated that the staff report states that this request is consistent with the Comprehensive Plan. He stated that the Comprehensive Plan speaks to sanitary landfills being an appropriate use in the "Outer Ring", and this property lies in the Outer Ring. He stated that a recent change to the Zoning Ordinance addresses sanitary landfills. He stated that with the current update, sanitary landfills are legal in M-2 & M-3 Districts. He stated that he felt the zoning map amendment would result in a zoning pattern that follows a very logical boundary limitation. He stated that it uses existing roadways, and drainage ditches. He stated that not only is this request consistent with the Comprehensive Plan, it is also consistent with the current conditions and the character of current structures and uses, in the district. He stated that the property on the east side of Smith Road is already zoned M-2. He stated that this request does not deviate from existing conditions. He stated that the area to the south of the zoning change is M-2, and the area to the north is in the county, but is bounded by Engle Road. He stated that the area to the west presents them with a very interesting opportunity. He stated that he had a representative from the Allen County Parks Department to discuss the consistency between their proposed rezoning and the proposed use of the land to the West, which is currently zoned R-1. He stated that this land is proposed to be used as a wetlands nature preserve, which will be funded in part from revenue emanating from the landfill.

Amy Debrosse, Superintendent with the Allen County Parks & Recreation Department, appeared before the Commission. Ms. Debrosse stated that she was there to speak about the land that is adjacent to and west of the landfill. She stated that there are 126 acres of land in this parcel. She stated that they entered into negotiations with United Refuse and its parent corporation a little over three years ago, regarding a mitigation issue for this property. She stated that the State DNR along with the U.S. Fish & Wildlife Service and the Allen County Parks & Recreation Department and IDEM, worked very close together on current issues regarding the landfill, as well as resolving some mitigation issues over a period of years. She stated that the agreement that was reached is that United Refuse Corporation has purchased 126 acres of land. They are waiting on a final permit from the Army Corps of Engineers for reconstruction of wetlands, within that 126 acres. She stated that there would be 40 acres that will be reconstructed wetlands

areas, there are currently over 60 acres of forested wetlands that will be preserved and an additional buffer area further to the south. She stated that this property will become a park, open for all residents of Allen County, as well as those who will be visiting the community. It is very visible from the Engle Road as well as visibility from the Smith Road. She stated that there will be access to the site from the Smith Road on United Refuse property. There will be a parking lot as a part of the united project. She stated that the park will be accessed across the Junk Ditch, those approvals have already been granted. She stated that they have also worked out an agreement with United Refuse, that they not only will be donating this land to Allen County, but will also be providing an endowment fund for the next 10 years for its care, maintenance and long term operation. She stated that they will be investing those funds and using them solely for that cite. Maintenance of that facility will also be cared for by United Refuse, under the direct supervision of Ms. Debrosse and her staff. She stated that they are also asking U.S. Fish & Wildlife, the Indiana Fish & Wildlife and any other interested parties, to help them with the development and management of this area, to make it one of the topnotch wetlands reconstruction facilities in the country. She stated that it is a consistent use. She stated that she has always been very "jumpy" when it comes to entering into any agreements with landfills. She stated that they have extensively researched this issue. They went into the corporation's (United Refuse) background, its history, track record and talked directly with IDEM and DNR officials, and not only she, but her Board of Directors was very comfortable with this corporation. She stated that in a little over the three years history that they have had with them, they have lived up to their word and every agreement that they have made, and gone above and beyond the things that they have asked them to do.

Pat Fahey questioned if the parking area would run all the way from Engle Road down to the railroad right-of-way.

Ms. Debrosse stated that was correct.

Mr. GiaQuinta stated that they brought up the project by the Allen County Parks Department, not to obtain approval of this project. He stated that they brought it up to indicate to the Commission that the outlying area to the west is the area in question and is consistent with the rezoning they are seeking. He stated it will in fact allow this corporation (United Refuse) to serve as the engine that drives that initiative. He stated that there is another initiative that they have under way that they believe ties into this rezoning and other requests that they are making in the land use area. He stated that it is in its very formative stages, but there is some very good news that is coming out of those efforts. Many of you who are involved in the city on a day-to-day basis, are well aware of a situation that exists on Creighton Avenue next door to the police station. He stated that there are several hundred thousand tires sitting in a building and that it constitutes one of the most serious, potential fire hazards, to the community. He stated that the only way to resolve that kind of hazard is to take the tires and cut them into little squares, so they no longer constitute a fire hazard. He stated that this corporation (United Refuse) is in the process of putting together the details of resolving that hazard once and for all. He stated that he has spoken to the Mayor and he is advised of the progress they are making with IDEM. He stated that they do have some other "t's" to cross and "i's" to dot that would allow them to take the project on. He stated that they are doing this in conjunction with the IDEM and with local officials. He stated that there are some indirect benefits at stake, that they are very proud of and happy to talk about. He stated that he was pointing out these facts to let the Commission know that they are dealing with a corporation that is a good corporate citizen and intends to remain a good corporate citizen and has the track record to prove it.

DeDe Hall questioned if they owned all of the land that was being rezoned.

Mr. GiaQuinta stated that they did own all of the land in the requested rezoning.

Jim Dearing questioned if the purpose for the rezoning was out of convenience to simply "straighten the books".

Mr. GiaQuinta stated that the purpose of the rezoning is to allow United Refuse to move forward with other requests, that they have advised both the City Council and Planning staff they would like to make. He stated that this request will bring the underlying zoning of the existing landfill, and some additional property that falls outside the existing landfill, that is zoned residential, into a zoning designation that allows them to go to the appropriate zoning authority and put on a case for an ancillary use or something like that, in accordance with the new Zoning Ordinance provisions.

Mr. Dearing asked if the mound that is currently there would be going any further to the north.

Mr. GiaQuinta stated that most of the mound will remain in the current footprint that has been approved by the local zoning authorities. He stated though IDEM has permitted an area that extends about 100 feet past that mound to allow for the kind of engineering they (IDEM) wants to see in this particular landfill. He stated that in order for them to conform locally with what IDEM has permitted state wide, they intend to take that 100 foot strip and include that property. He stated that they will need further approval for that strip, but that will come from another authority, but they do need the M-2 zoning in order to apply for that permission on that strip of land.

DeDe Hall asked if tire storage or shredding would be a legal use in the M-2 zoning.

Pat Fahey stated that storage of any type of materials would be allowed in an industrial district.

Mr. GiaQuinta stated that they currently have an area of M-2 zoning. He stated that if storage was the goal that could already be done. He stated that they do not intend to do any storage, they are there to operate a landfill.

The Operations Officer of the Parent Corporation of United Refuse appeared before the Commission. He stated that they have no intention of doing any tire storage or shredding on this property. He stated that if they move forward with the removal of the tires that is next to the police station, the shredding will be done there. He stated that the shred will be brought to the site and buried.

Jim Hoch questioned if the current landfill was sitting on an M-2, M-1 and R-1 classification.

Mr. GiaQuinta stated that was correct.

Pat Fahey stated that the reason for that, was that at one time, a sanitary landfill could be considered by the Board of Zoning Appeals in certain residential districts. He stated that the zoning was not an issue when this was first reviewed as a refuse site in 1969. He stated that the use was approved in 1969, but the underlying zoning was not changed. He stated that when the ordinance was updated they felt that this type of use was not appropriate, for the Board to consider, as a Special Use in a residential district. He stated that they also felt that it was most

similar to a general industrial use, and that is why that requirement was changed.

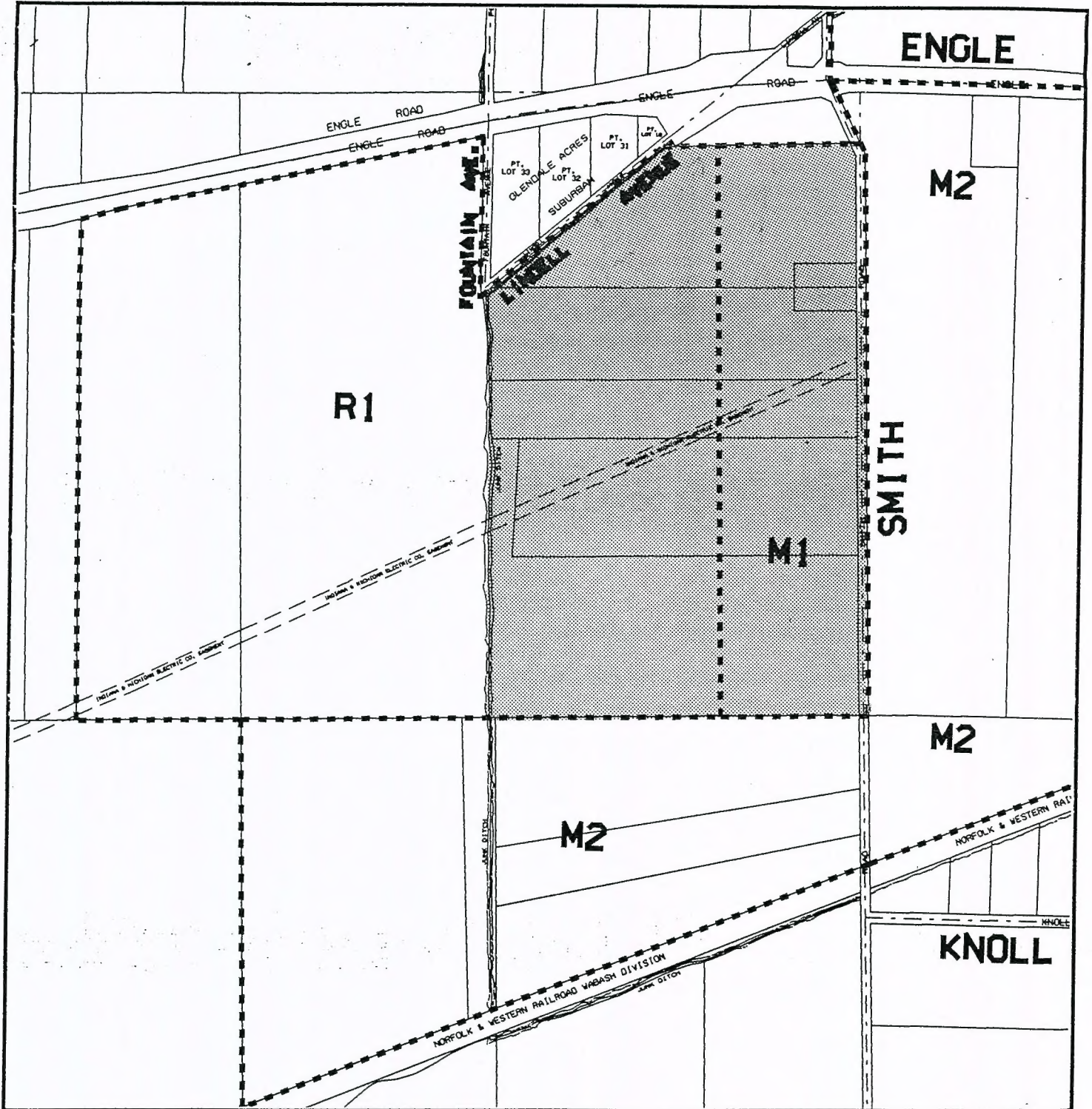
Mr. GiaQuinta stated that the original special exception granted in 1969 created an 89½ acre sanitary landfill. He stated that when they add the 100 foot strip, they are including in this rezoning, it will amount to a landfill that is about 4 to 5 acres short of the original approval. He stated that while it is a 100 foot shift in the footprint of the landfill, the overall acreage is actually less than what was permitted.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning request.

# REZONING PETITION

AREA MAP

CASE NO. #618



COUNCILMANIC DISTRICT NO. 4

Map No. E -15

<b>R1</b>	One-Family	<b>B1</b>	Limited Business	<b>M1</b>	Light Industrial
<b>R2</b>	Two-Family	<b>B2</b>	Planned Shopping Center	<b>M2</b>	General Industrial
<b>R3</b>	Multi-Family	<b>B3</b>	General Business	<b>M3</b>	Heavy Industrial
<b>RA/RB</b>	Residential	<b>B4</b>	Roadside Business	<b>MHP</b>	Mobile Home Park
<b>PUD</b>	Planned Unit Dev.	<b>POD</b>	Professional Office District		

## RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

**WHEREAS**, the Common Council of the City of Fort Wayne, Indiana, on July 23, 1996 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-96-07-14; and,

**WHEREAS**, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

**WHEREAS**, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1996.

**NOW THEREFORE, BE IT RESOLVED** that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a **DO PASS** recommendation based on the Commission's following "Findings of Fact".

- 1) Approval of the request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area.
- 2) Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area.

In fact, approval will extend the requested zoning along logical boundary lines, using existing roadways, railways and ditches as boundary limits.

**BE IT FURTHER RESOLVED** that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 22, 1996.

Certified and signed this  
26th day of July 1996.



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Carol Kettler Sharp  
Secretary

**Mark E. GiaQuinta, attorney for United Refuse Company, Inc. requests a change of zone from R-1 and M-1 to M-2**

Location: 5000 Smith Road

Legal: See file

Land Area: Approximately 80.4 acres

Zoning: R-1 and M-1

Surroundings:

North	County	Open
South	M-2	Railroad
East	M-2	Open (undeveloped woods)
West	R-1	Open

Reason for Request: Municipal solid waste landfill facility

Neighborhood Assoc.: None

Neighborhood Plan: No comment.

Comprehensive Plan: The general land use policies of the comprehensive plan state that development proposals should be compatible with existing and planned land uses and should not establish and undesirable precedent in the area to be developed.

This property is located in the West Sector of the Outer Ring. The overall goal in the Outer Ring is to encourage growth in a balanced manner that is within or adjacent to existing development in the urban service area. More specifically, the goal of the west sector is to contain growth within the urban service line.

**Planning Staff Discussion:**

The area was recently annexed into the City of Fort Wayne. United Refuse has owned and occupied the site since approximately 1969. The existing landfill was originally approved in 1969 as a Special Use for a refuse dump by the Fort Wayne Board of Zoning Appeals while the site was under the city's extra-territorial jurisdiction. The site reverted to Allen County's jurisdiction in 1974, where it remained until annexation this year. There were several County BZA reviews and approvals of different aspects of the landfill operations between 1969 and the 1996 annexation by the City.

Earlier this year, the city revised portions of the Zoning Ordinance. Included in the updated sections was language clarifying municipal solid waste landfill facilities as a Special Use in M2 and M3 districts. In addition to minimum requirements set forth in the ordinance, compliance with State law and the Indiana Administrative Code.

Portions of the existing United Refuse site are zoned M2, M1 and R1. We understand that landfill operations on approximately 62 acres will be completed in 1997, according to an Agreed Order between IDEM and United Refuse. That acreage is located on the south side of the site. Currently the 20 plus acres located north side of the AEP easement are not part of the active fill operation.

In order to seek a possible expansion of their site, they would need to seek Board of Zoning Appeals approval and state approval. The Zoning Ordinance would allow the Board to hear a Special Use request for an expansion of an existing landfill facility in an M2 or M3 district.

The property on the east side of Smith Road, and a portion of the United Refuse site north of the railroad is currently zoned M2. The Junk Ditch is located along the west edge of their property, and serves as a natural delineation.

The requested zoning appears to be appropriate for the area. Approval would result in the zoning pattern following a more or less logical boundary limitation, using existing roadways, railways and ditches. Approval would be consistent with existing zoning in the area, and would not establish a negative precedent. Approval would potentially allow for limited growth within existing boundaries.

Recommendation: Do Pass for the following reasons:

- 1) Approval of the request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area.
- 2) Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area.

In fact, approval will extend the requested zoning along logical boundary lines, using existing roadways, railways and ditches as boundary limits.